

Town of Rockport Short-Term Rental Ordinance

Synopsis: This proposed Ordinance affirms the Town of Rockport's application of standards of habitability and life safety to residential rental units and allowing Short-Term Rentals subject to provisions designed to: (1) protect renters; (2) preserve long-term rentals; (3) grandfather certain existing Short-Term rentals; and (4) maintain the quiet enjoyment of residences in Rockport's neighborhoods.

Section 1. Title

This Ordinance shall be known and may be cited as the Short-Term Rental Ordinance

Section 2. Purpose

The Select Board believes it is in the best interests of the Town to put to the voters' consideration an Ordinance that would provide parameters around the continued use of Short-Term Rentals in Rockport. What was historically a practice of renting homes in the summer for periods of a week or longer has become, with the proliferation of online aggregators such as Airbnb and VRBO, a commercial activity similar to that of other lodging businesses.

This practice has: (a) caused concern and complaints by residents about introducing commercial activity into residential neighborhoods; (b) affected the availability of long-term rentals for those who would provide year-round commercial and civic activity to the Town; and (c) brought about inequity in the way in which businesses are treated and regulated – with those engaging in the Short-Term Rental business not subject to the same requirements as other lodging businesses.

Notwithstanding these concerns, the Select Board recognizes that those currently engaging in this business practice have invested in their properties for this purpose and may have come to rely on the income that it produces. For this reason, the Select Board recommends that **current owners and heirs¹** of existing Short-Term Rental Properties be grandfathered as set forth herein.

Because many of the concerns expressed about Short-Term Rentals arose from Non-Owner-Occupied Short-Term Rentals, those are the primary focus of this Ordinance; the Ordinance does, however, provide for registration and health/safety requirements for Owner-Occupied Short-Term Rentals.

The Select Board believes that it is in the best interests of the Town to address the fundamental issue of whether its primary objective is to be a tourist Town or one that places priority on long-term residents and those who need attainable housing to support that long-term residence objective.

Section 3. Changes to Existing Ordinances

1. The following shall be added at the end of the current definition of **Commercial Use** in Section 302 of the Rockport Land Use Ordinance:

¹ Clarifies that grandfathering does not apply once property is transferred other than via inheritance

Notwithstanding the above, **Commercial Use** shall include the activity of Short-Term **Rental**.

2. The following shall be added to the Section 604.1 of the Rockport Land Use Ordinance dealing with **Inspection of Rental Dwelling Units(s)**:

In addition, the Code Enforcement Officer, Fire Chief or their designee(s) shall have the authority to inspect any **Non-Owner Occupied Short-Term Rental Property**.

3. Section 917 C. of the Rockport Land Use Ordinance shall be amended to add **Non-Owner Occupied STR** as a Commercial Use, with Conditional Use in Districts 901, **902, 903,²** 904 and 913 and Permitted Use in other Districts.
4. Section 919 of the Rockport Land Use Ordinance shall be amended to add the following paragraph:

The Planning Board shall not approve a Conditional Use to a **Non-Owner Occupied STR** if it does not comply with the Parking Rules in Section 1.11 or if the **Non-Owner Occupied Short-Term Rental Property** is subject to a restrictive covenant prohibiting business or Commercial Uses or otherwise prohibiting **Short-Term Rentals** on the parcel. Among other factors the Planning Board shall consider for approval of a Conditional Use: (a) the number of **STRs** in the district; (b) the concentration of **STRs** in the neighborhood or on a particular street; (c) the impact of more **STRs** on abutting properties and other neighbors; (d) the testimony or statements of neighbors in support of or against further **STRs**; and (e) the impact of more **STRs** on the availability of long-term rentals in Rockport generally.

Section 4. Additional Definitions

1. **Owner Occupied Short-Term Rental (STR) Property:** A **Dwelling Unit(s)** or **Residential Structure** which at the time of the Short-Term Rental, is occupied by the owner or the owner occupies another Building on the same or **Abutting Property**.
2. **Non-Owner-Occupied Short-Term Rental (STR) Property:** A **Short-Term Rental** of a **Dwelling Unit(s)** or **Residential Structure** which is not an **Owner Occupied Short-Term Rental Property**.
3. **Rockport Resident:** For purposes of this Short-Term Rental Ordinance, the owner of a **STR Property** who declares Rockport as their primary domicile for voting and income tax purposes.

² Zoning districts 902 and 903 were added to reflect other residential neighborhoods with greater density where the neighborhood character could be adversely affected by STRs.

4. **Short-Term Rental (STR)** means the rental of a **Dwelling Unit(s)** or **Residential Structure** three (3) or more times in a calendar year with a rental duration of less than thirty (30) for each such rental.
5. **Short-Term Rental (STR) Property:** Includes **Owner Occupied STR Property** and **Non-Owner Occupied STR Property**.

New Ordinance

1. Regulation of Short-Term Rentals

1.1 Registration of Owner Occupied STRs

Effective _____, no person or entity shall operate an **Owner Occupied STR** in Rockport without **annually** registering as specified below and obtaining a registration from the Code Enforcement Officer. The registration shall include, but not be limited to:

- A. A completed registration form that includes the following information:
 1. Number of units available for **STR**;
 2. Policy number, insurer and limits of liability available to protect **STR** renters;
 3. Name and complete contact information for the owner;
 4. If located in a subdivision with recorded covenants and restrictions, evidence through a deed or otherwise that the **STR Property** is not burdened by a covenant restricting or prohibiting a business or Commercial Use or otherwise prohibiting **STRs** on the parcel;
- B. A non-refundable \$50 fee;³ and
- C. A self-compliance affidavit, on a form provided by the Town, signed by the owner under penalty of perjury, that the **STR Property** complies with state and local building codes, zoning, and habitability and life safety requirements for rental properties as set forth in §604.2 of the Rockport Land Use Ordinance.
- D. **Registration renewal forms must be submitted 30 business days prior to the expiration of the existing registration. Provided the owner has not changed any information and is in compliance with all current requirements for the existing STR, the STR may continue operating under the prior registration pending issuance of the renewal registration. The STR owner must promptly respond to any requests for additional information by the Code Enforcement Officer for processing the registration renewal.**⁴

³ The registration fee should be based in the cost to the Town for processing the registration. This is a placeholder but presumed to be a minimal amount.

⁴ **Allows STR to continue operating pending approval of the renewal registration so long as no changes have been made and the STR is in compliance with requirements.**

Unless the Code Enforcement Officer finds that the requirements of A through C, above are not met, the Code Enforcement Officer shall, within twenty (20) business days of receiving all required information, issue the registration. If the Code Enforcement Officer does not approve or deny the registration within thirty (30) business days of receiving all the required information, the registration shall be deemed approved.⁵

1.2 Registration of Non-Owner Occupied STRs⁶

Effective _____, no person or entity shall operate a **Non-Owner Occupied STR** in Rockport without **annually** registering as specified below and obtaining a registration from the Code Enforcement Officer. Subject to § 1.17, the registration shall include, but not be limited to:

- A. A completed registration form that includes the following information:
 - 1. Number of units available for **STR**;
 - 2. Policy number, insurer and limits of liability available to protect **STR** renters;
 - 3. Name and complete contact information, including a 24-hour available telephone number for a responsible agent, as described in §1.6 below;
 - 4. If located in a subdivision with recorded covenants and restrictions, evidence through a deed or otherwise that the **Non-Owner Occupied STR Property** is not burdened by a covenant restricting or prohibiting a business or Commercial Use or otherwise prohibiting **STRs** on the parcel;
- B. A non-refundable \$_____ fee;⁷ and
- C. A self-compliance affidavit, on a form provided by the Town, signed by the owner under penalty of perjury, that the **STR Property** complies with state and local building codes, zoning, and habitability and life safety requirements for rental properties as set forth in §604.2 of the Rockport Land Use Ordinance.
- D. **Registration renewal forms must be submitted 30 business days prior to the expiration of the existing registration. Provided the owner has not changed any information and is in compliance with all current requirements for the existing STR, the STR may continue operating under the prior registration pending issuance of the renewal registration. The STR owner must promptly respond to any requests for additional information by the Code Enforcement Officer for processing the registration renewal.**⁸

⁵ The 30-day period is a “deemer provision” to ensure that if the CEO does not act promptly, the owner-occupied STR use can proceed.

⁶ **Deleted the following: “The months available for STR, number of nights of rental of STR in the prior calendar year, gross income therefrom and a copy of the Maine State Lodging Tax Return for the two prior calendar years.”**

⁷ This fee is intended to reflect the Town’s costs in this registration process. An appropriate fee for Non-Owner occupied STR is likely going to be higher than for an owner-occupied STR as the review is more involved.

⁸ **Allows STR to continue operating pending approval of the renewal registration so long as no changes have been made and the STR is in compliance with requirements.**

1.3 Number of Registrations

Rockport Residents may register no more than three (3) **STR Properties** and non-**Rockport Residents** may register no more than one (1) **STR Property** in any one calendar year. In addition, **Rockport Residents** and non-**Rockport Residents** may register an additional **STR Property** for every three (3) non-**STR Dwelling Unit(s)** or Residential Structures that said person or entity offers for residential lease in Rockport.

1.4 Display of Registration Number

STR registration cards with a registration number shall be issued by the Code Enforcement Officer upon approval of the **STR** registration for each approved **STR Property**. All **STRs** shall: (a) display the registration card in a prominent place on the **STR Property**; and (b) include the registration number in all advertising of the **STR Property**, including but not limited to website, emails, print media, television and radio.

1.5 Transfer of Registrations

Registrations shall not be transferable upon sale of the **STR Property**. **However, if an owner dies and leaves the STR Property to a relative(s) through inheritance, the registration shall remain effective as to the new owner of the STR Property.⁹**

1.6 Responsible Agent

- A. Each owner of a **Non-Owner Occupied STR Property** shall designate a person or entity to serve as the responsible agent. The owner of an **Owner-Occupied STR Property** shall serve as the **responsible agent** unless another **responsible agent** is designated.
- B. The **responsible agent** shall have access and authority to assume management of the **STR Property** and take remedial measures, as necessary. The responsible agent shall be available twenty-four (24) hours a day, seven (7) days a week to respond to complaints from neighbors, the Police Department or the Code Enforcement Officer with respect to the **STR Property** and violations related to this Ordinance that affects a neighbor's quiet enjoyment of their property.
- C. **The designated responsible agent and that individual's contact information shall be provided by the STR owner to all abutters to the STR Property upon registration of the STR Property for such use.**

1.7 Inspections¹⁰

The Code Enforcement Officer has the right to inspect any **STR Property** with respect to whether:

⁹ **Changed so that STR Property registrations follows the property in the case of inheritance to a related party.**

¹⁰ **Deleted a section concerning complaints as duplicative of another section.**

- A. The number of bedrooms declared in advertising, or are otherwise available for use, is greater than that listed on the registration card issued by the Code Enforcement Officer;
- B. The number of bedrooms advertised, or otherwise available for use, is greater than the on-site wastewater system or sewer system permitted for that property; or
- C. Information on the relevant registration application has been falsified.

1.8 Number of STR Rentals for Non-Owner Occupied STRs

Each **Non-Owner Occupied STR** shall be for a minimum of at least **four (4)**¹¹ consecutive nights. Guests may stay for less than the minimum stay provided that such **STR Property** remains vacant until the end of the minimum stay period.¹²

1.9 Signage

Notwithstanding §1101 of the Rockport Land Use Ordinance, yard **Signs** or **Wall Signs** related to an **STR Property** are limited to one (1) sign in the yard or on the **Building** identifying the property no less than ten (10) feet from the edge of the **Street**. Such sign shall be no larger than 20" by 30".

1.10 Occupancy Limits

- A. Each **STR Property** shall have a maximum capacity per bedroom of two (2) adults plus two (2) children under the age of twelve (12);
- B. The number of bedrooms declared on the **STR Property** registration pursuant to §1.1 and §1.2 to shall not exceed the number listed on the building permit issued by the Town; and
- C. The number of bedrooms for any **STR Property** shall not exceed that approved by the Code Enforcement Officer for compliance with the approved septic or sewer plan for that property.

1.11 Parking Rules

No registration for a **STR Property** shall be issued unless off-street parking is provided. Each **STR Property** shall have one (1) off-street parking space, plus one (1) additional off-street parking space for each Dwelling Unit. Parking is prohibited if it blocks egress from adjacent resident driveways, sidewalks, alleys or mailboxes or blocks fire rescue from accessing adjacent properties. Violations of this provision are subject to immediate removal of the offending vehicle and further penalties against the **STR** owner as described in § 1.19.

¹¹ **Reduced minimum number of nights from 7 to 4 based on STR owner statements that this is the trend they are seeing in rental periods (3-5 nights).**

¹² Consider whether to add a provision limiting the annual total of Short-Term rentals *e.g.* " **Non-Owner Occupied STRs** are limited to a total of ____ nights of **STR** in any calendar year."

[DELETED Section 1.12 regarding firepits, dogs, trash, etc. as contained in Rockport Ordinances generally.]

1.12 Information from Rental Agencies

Rental agencies doing business in the Town of Rockport by placing renters with Rockport **STR Properties** shall include the registration number of each **STR Property** in all its advertisements related thereto.¹³

1.13 Prohibited Activities

- A. Offering for rent an **STR Property** prior to the issuance of a registration pursuant to 1.1 and 1.2;
- B. Providing false information on a **STR** registration application;
- C. Offering **STR** in a structure not permitted by Rockport Ordinances for human habitation;
- D. Attempting to transfer a registration to a new owner without approval of the Code Enforcement Officer; and
- E. A guest or Non-Owner attempting to sublease or assign any portion of a **STR Property** to another person during the rental period.

1.14 Noise and Other Complaints

- A. Complaints about noise, parking, traffic and rowdy behavior related to a **STR** shall be directed to the Code Enforcement Officer or Police Department which shall notify the owner and responsible agent of the **STR Property**.
- B. Complaints directed to the Police Department shall be conveyed to the Code Enforcement Officer who shall maintain a log of all complaints, seek to correct or resolve such complaints, and consider such complaints in assessing fines pursuant to §1.19 and/or suspending, revoking and non-renewing the registration for the **STR Property**.

1.15 Denial, Suspension or Revocation of Registration

- A. The Code Enforcement Officer may suspend, decline to issue or renew any registration for any **STR Property** upon failure of the applicant to meet all the requirements of this or any other relevant Ordinance. In such event, the Code Enforcement Officer shall notify the owner of the **STR Property** in writing by email and letter within two (2) business days of such decision;
- B. If a **STR Property** is the subject of two (2) or more substantiated violations of any state or local law or ordinance, the Code Enforcement Officer may suspend or revoke the registration for the **STR Property**. In such event, the Code Enforcement Officer shall

¹³ Deleted "and shall provide to the Code Enforcement Officer information on the address and owner of each STR Property, the number and duration of rentals and the gross annual income for each such STR Property."

notify the owner of the **STR Property** of such revocation or suspension in writing by email and letter within two (2) business days of the decision; and

- C. It shall be the responsibility of the owner of the **STR Property** to advise renters and any rental agencies, that the **STR Property** will not be available for rental until the registration is reinstated.

1.16 Temporary Moratorium on Addition Registrations

Upon adoption of this Ordinance, there shall be a two (2) year moratorium on the acceptance of registrations for **Non-Owner Occupied STRs** pursuant to §1.2 **that are not grandfathered pursuant to Section 1.18,¹⁴ and that are located in zoning districts 901, 902, 903, 904 and 913.** The intent of the moratorium is to allow the Town to study the information received through the registration process and consider what, if any, additional or different STR regulation may be appropriate **in the more densely populated zoning districts.**¹⁵ If no additional or different STR regulation is enacted, the registration process described in this Ordinance shall recommence.

1.17 Limited Grandfather Rights for Non-Owner Occupied STRs¹⁶

- A. **Non-Owner Occupied STRs** which were in operation at any time two (2) years before **December 31, 2020¹⁷**, are hereby grandfathered for a continued use as a **STR Property** without the need to apply to the Planning Board for a Conditional Use Permit pursuant to §919 of the Rockport Land Use Ordinance if: **(a) the owner provides evidence sufficient for the Code Enforcement Officer to determine that the property was used for STR purposes at some time during the two (2) years prior to Dec. 31, 2020;¹⁸** (b) the **STR Property** is in compliance with the parking requirement of §1.11; (c) if located in a subdivision with recorded covenants and restrictions, the owner provides the Code Enforcement Officer with evidence through deed or otherwise that the **STR Property** is not burdened by a covenant restricting or prohibiting business or Commercial Use or otherwise prohibiting **STR** activity; **and (d) the owner submits the required registration form within 60 days of the effective date of this ordinance in accordance with Section 1.2 above.¹⁹**

¹⁴ Clarified what was previously referred to as “additional registrations.”

¹⁵ The 2-year moratorium would be limited to the zoning districts that have a conditional use for STRs. New STRs in other zoning districts in which STRs are permitted uses would not be subject to the 2-year moratorium, so long as the registration and other requirements are met.

¹⁶ Note: There is no moratorium on owner-occupied STRs so no need for grandfathering.

¹⁷ Changed from effective date of ordinance to year end to avoid last minute rush to establish new STRs.

¹⁸ Deleted the requirement to produce Maine State Lodging or any specific evidence for grandfathering purposes and left the nature of the evidence open as to whatever is acceptable to the Code Enforcement Officer. This was in response to concerns expressed by some that they may not pay Maine State Lodging tax and concerns expressed by others that they do not pay the tax directly but through the STR aggregator.

¹⁹ This subsection was added to ensure that grandfathering applies to those who qualify and timely file for the grandfathered status. The Town has an interest in timely registrations to establish an accurate database of

- B. Such grandfathered status does not relieve the owner from having to apply annually for registration for **STR** use.
- C. This grandfathered status is not transferable upon sale of the **STR Property**. However, if an owner dies and leaves the **STR Property** to a relative(s) through inheritance, the grandfathered status shall remain effective as to the new owner of the **STR Property**.²⁰

1.18 Violations and Penalties

- A. For operating an **STR** without a registration pursuant to this Ordinance, the owner of the **STR Property** shall be penalized \$100 per day for the first offense and \$150 a day for any additional offense for each **STR Property** which is operated without a registration;
- B. For violation of occupancy limits, the owner of a **STR Property** shall be fined \$100 per day for the first offense and \$150 per day for any additional offense for each **STR Property** that exceeds the occupancy limits;
- C. For providing false information in the application for **STR** Registration, the owner of the **STR Property** shall be fined \$1000; and
- D. For failure to comply with any other section of this Ordinance, the owner of the **STR Property** shall be fined \$100 per day which fine shall be in addition to any applicable fine above.

existing STRs and conditioning the grandfathering on timely registration incentivizes existing STRs to register or not be eligible for grandfathering.

²⁰ Changed so that STR Property grandfathered status follows the property in the case of inheritance to a related party.